

REMARKS/ARGUMENTS

I. Amendments to the Specification

It has come to Applicants' attention that subject matter disclosed in the provisional application to which the present application claims priority was inadvertently left out of the PCT application, which was the immediate parent of the present application. In accordance with 37 CFR 1.57(a), restoration of this subject matter, including the sole figure of the provisional, is requested and accomplished by the substitute specification submitted herewith. A copy of the provisional is submitted herewith wherein the subject matter restored to the present application is identified as well as where the subject matter has been added. Every effort has been made to faithfully restore the literal text of the matter inadvertently left out although in some cases minor grammatical corrections have been made. The prior erroneous spelling of "cold pressor" test of [0007] and [0008] has been corrected to the correct spelling of the provisional. A copy of the pending application marked up to show changes is also submitted. The sole Figure of the provisional is added as new Figure 4. It is averred that no new subject matter has been added by these amendments and that all added subject matter is fully supported in the original provisional.

II. Power of Attorney

Please note the change in Power of Attorney submitted herewith.

III. Election of Species:

The Examiner has requested elections of single disclosed species of each of: a vasodilator, a hemodynamic parameter of interest, and an area of interest. In response to the requirement for election of species for initial examination, Applicant hereby elects without traverse the occlusion of blood flow as the specie of vasodilator. All claims, including new claims 21 – 23, are believed to be readable on this elected species.

The elected species of hemodynamic parameter is temperature. Thus, claims 10 – 12, which are drawn to measurement of blood oxygen are withdrawn. Similarly, claim 13, which is directed to taking measurements with a photoplethysmograph is withdrawn, as well as claim 14, which is directed to monitoring by ultrasound Doppler. It is believed that the all non-withdrawn claims, including new claims 21 – 22, are readable on the elected temperature species.

The elected species of area of interest for monitoring or measurement is the fingertip. Thus, claims 5 and 6, drawn to monitoring on the arm are withdrawn. It is believed that all the non-withdrawn claims, including new claims 21 – 22, are readable on this elected species.


Applicant's elections herein are made without prejudice. As noted by the Examiner, upon allowance of the generic claims, Applicants will be entitled to consideration of claims to additional species written in dependant from or otherwise including the limitations of the allowed generic claims.

Conclusion

The Commissioner is authorized to charge any additional fees incurred in this application or credit any overpayment to Deposit Account No. 50-1922. Should the Examiner have any questions, please do not hesitate to call Applicant's attorney at per the following contact information.

Respectfully submitted,

By



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CERTIFICATE OF EFS TRANSMISSION

I hereby certify that this document is being transmitted electronically to the USPTO EFS Portal, according to 37 CFR § 1.8(a)(1)(i)(C) on **May 18, 2009**.

Typed or printed name of person signing this certificate: **Marilyn M Huston**

Signature:

Registration Number: **37,851**

